

03-24-06

IFW 1648

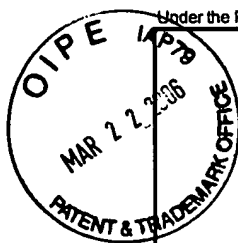
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PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number		09/802,686
Filing Date		March 9, 2001
First Named Inventor		Gary VAN NEST
Art Unit		1648
Examiner Name		T. Brown
Total Number of Pages in This Submission	10 pages + 27 refs.	Attorney Docket Number 377882000900

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form + duplicate copy for fee processing - 2 pages <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement (Supplemental) - 3 pages <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Form PTO/SB/08a/b + copy - 4 pages Twenty-seven references Return Receipt Postcard
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	MORRISON & FOERSTER LLP (Customer No. 25226)		
Signature	<i>Debra J. Glaister</i>		
Printed name	Debra J. Glaister		
Date	March 22, 2006	Reg. No.	33,888

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 534437519 US, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: March 22, 2006

Signature: *Georgina Matos* (Georgina Matos)



Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005		Complete if Known	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	09/802,686
		Filing Date	March 9, 2001
		First Named Inventor	Gary VAN NEST
		Examiner Name	T. Brown
		Art Unit	1648
TOTAL AMOUNT OF PAYMENT		Attorney Docket No.	377882000900
(\$)		180.00	

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 03-1952 Deposit Account Name: Morrison & Foerster LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	0.00
Design	200	100	100	50	130	65	0.00
Plant	200	100	300	150	160	80	0.00
Reissue	300	150	500	250	600	300	0.00
Provisional	200	100	0	0	0	0	0.00

2. EXCESS CLAIM FEES

Fee Description		Small Entity Fee (\$)	Fee (\$)
Each claim over 20 (including Reissues)		50	25
Each independent claim over 3 (including Reissues)		200	100
Multiple dependent claims		360	180
<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
10	- 20 = 0	x 25 =	0.00
<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
1	- 3 = 0	x 100 =	0.00

<u>Multiple Dependent Claims</u>		<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
		180	0.00

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
- 100 =	/50	(round up to a whole number) x	125 =	0.00

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)	
Other (e.g., late filing surcharge): 1806 Submission of an Information Disclosure Statement	180.00

SUBMITTED BY			
Signature		Registration No. (Attorney/Agent)	33,888
Name (Print/Type)	Debra J. Glaister	Telephone	(650) 813-5725
		Date	March 22, 2006

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 534437519 US in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: March 22, 2006

Signature: _____

(Georgina Matos)

Patent

Docket No. 377882000900

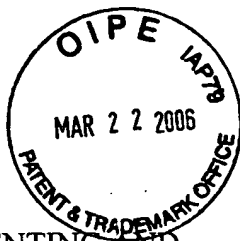
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Gary VAN NEST

Serial No.: 09/802,686

Filing Date: March 9, 2001

For: METHODS OF PREVENTING AND
TREATING RESPIRATORY VIRAL
INFECTION USING
IMMUNOMODULATORY
POLYNUCLEOTIDE SEQUENCES



Examiner: T. Brown

Group Art Unit: 1648

**SUPPLEMENTAL INFORMATION DISCLOSURE
STATEMENT UNDER 37 C.F.R. § 1.97 & 1.98**

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. § 1.97 and § 1.98, Applicant submits for consideration in the above-identified application the documents listed on the attached Form PTO/SB/08a/b. Copies of foreign documents and non-patent literature are submitted herewith. The Examiner is requested to make these documents of record.

This Supplemental Information Disclosure Statement is submitted:

- ☐ With the application; accordingly, no fee or separate requirements are required.
- ☐ Before the mailing of a first Office Action after the filing of a Request for Continued Examination under § 1.114. However, if applicable, a certification under 37 C.F.R. § 1.97 (e)(1) has been provided.

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- ☐ Within three months of the application filing date or before mailing of a first Office Action on the merits; accordingly, no fee or separate requirements are required. However, if applicable, a certification under 37 C.F.R. § 1.97 (e)(1) has been provided.
- ☒ After receipt of a first Office Action on the merits but before mailing of a final Office Action or Notice of Allowance.
- ☐ A fee is required. A check in the amount of ___ is enclosed.
- ☒ A fee is required. Accordingly, a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.
- ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above; accordingly; no fee is believed to be due.
- ☐ After mailing of a final Office Action or Notice of Allowance, but before payment of the issue fee.
- ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a check in the amount of ___ is enclosed.
- ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a Fee Transmittal form (PTO/SB/17 is attached to this submission in duplicate.)

Applicant would appreciate the Examiner initialing and returning the Form PTO/SB/08a/b, indicating that the information has been considered and made of record herein.

The information contained in this Supplemental Information Disclosure Statement under 37 C.F.R. § 1.97 and § 1.98 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the above information constitutes prior art to the subject invention.

In the unlikely event that the transmittal form is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief (such as payment of a fee under 37 C.F.R. § 1.17 (p)) is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petition and/or other

Application Serial No. 09/802,686

Patent
Docket No. 377882000900

fees due in connection with the filing of this document to **Deposit Account No. 03-1952**
referencing 377882000900.

Dated: March 22, 2006

Respectfully submitted,

By 

Debra J. Glaister

Registration No.: 33,888
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, California 94304-1018
(650) 813-5725



ALTERNATIVE TO PTO/SB/08a/b (07-05)

Substitute for form 1449/1-01 INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)				Complete if Known	
				Application Number	09/802,686
				Filing Date	March 9, 2001
				First Named Inventor	Gary VAN NEST
				Art Unit	1648
				Examiner Name	T. Brown
Sheet	1	of	2	Attorney Docket Number	377882000900

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
	1.	US-2002/0028784-A1	03-07-2002	Nest	
	2.	US-2002/0098199-A1	07-25-2002	Van Nest et al.	
	3.	US-2002/0107212-A1	08-08-2002	Nest et al.	
	4.	US-2003/0050263-A1	03-13-2003	Krieg et al.	
	5.	US-2003/0216340-A1	11-20-2003	Van Nest et al.	
	6.	US-2004/0009942-A1	01-15-2004	Van Nest	
	7.	US-2004/0030118-A1	02-12-2004	Wagner et al.	
	8.	US-2005/0059626-A1	03-17-2005	Van Nest et al.	
	9.	US-6,514,948-B1	02-04-2003	Raz et al.	
	10.	US-6,534,062-B2	03-18-2003	Raz et al.	
	11.	US-6,552,006-B2	04-22-2003	Raz et al.	
	12.	US-6,613,751-B2	09-02-2003	Raz et al.	

FOREIGN PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)			
	13.	WO-98/40100-A1	09-17-1998	Ottawa Civic Loeb Research Institute et al.	
	14.	WO-01/68116-A2,A3	09-20-2001	Dynavax Technologies Corporation	

*EXAMINER: Initial if information considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

NON PATENT LITERATURE DOCUMENTS				
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.		
	15.	Baumann, N.M. et al. (December 1996). "Recurrent Respiratory Papillomatosis," <i>Pediatric Otolaryngology</i> 43(6):1385-1400.		
	16.	Beutner, K.R. et al. (February 1998). "Treatment of Genital Warts with an Immune-response Modifier (Imiquimod)," <i>Journal of the American Academy of Dermatology</i> 38(2, part 1):230-239.		
	17.	Clements, J.D. (1997). "Surface Warfare Against Pathogens Using Mucosal Vaccines," <i>Nature Biotech.</i> 15:622-623.		
	18.	Current Drugs Ltd. (February 24, 2003). "Lilly and 3M Suspend Resiquimod Trials," located at < http://www.iddb.com/iddb3/iddb3_2/reports.print_display?i_query_id=0&template=Refe... >, last visited on October 13, 2005, 1 page.		
	19.	Current Drugs Ltd. (February 24, 2003). "Preliminary Data From Recently Completed Clinical Trials of Resiquimod Suggest Dosing Used in Studies will not Achieve Adequate Efficacy," located at < http://www.iddb.com/iddb3/iddb3_2/reports.print_display?i_query_id=0&template=Refe... >, last visited on October 13, 2005, 1 page.		

Examiner Signature		Date Considered	
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pa- 1051641



ALTERNATIVE TO PTO/SB/08a/b (07-05)

Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)				Complete if Known	
				Application Number	09/802,686
				Filing Date	March 9, 2001
				First Named Inventor	Gary VAN NEST
				Art Unit	1648
				Examiner Name	T. Brown
Sheet	2	of	2	Attorney Docket Number	377882000900

20.	Guerrero-Plata, A. et al. (August 2005). "Activity and Regulation of Alpha Interferon in Respiratory Syncytial Virus and Human Metapneumovirus Experimental Infections," <i>Journal of Virology</i> 79(16):10190-10199.
21.	Hartmann, G. et al. (2000). "Mechanism and Function of a Newly Identified CpG DNA Motif in Human Primary B Cells," <i>J. Immunology</i> 164:944-952.
22.	Hartmann, G. et al. (February 1, 2000). "Delineation of a CpG Phosphorothioate Oligodeoxynucleotide for Activating Primate Immune Responses in Vitro and In Vivo," <i>J. Immunol.</i> 164(3):1617-1624.
23.	International Search Report mailed June 17, 2002 for PCT Application No. PCT/US01/07839 filed March 12, 2001, 4 pages.
24.	International Search Report mailed June 18, 2002 for PCT Application No. PCT/US01/07841 filed March 12, 2001, 6 pages.
25.	International Search Report mailed June 17, 2002 for PCT Application No. PCT/US01/07931 filed March 12, 2001, 7 pages.
26.	International Search Report mailed June 17, 2002 for PCT Application No. PCT/US01/07842 filed March 12, 2001, 6 pages.
27.	International Search Report mailed June 17, 2002 for PCT Application No. PCT/US01/07840 filed March 12, 2001, 6 pages.
28.	Krieg, A.M. (August 1996). "An Innate Immune Defense Mechanism Based on the Recognition of CpG Motifs in Microbial DNA," <i>J. Lab. Clin. Med.</i> 128(2):128-133.
29.	Krieg, A.M. (2000). "The Role of CpG Motifs in Innate Immunity," <i>Current Opinion In Immunology</i> 12:35-43.
30.	Ksiazek, T.G. et al. (May 15, 2003). "A Novel Coronavirus Associated with Severe Acute Respiratory Syndrome," <i>N. Engl. J. Med.</i> 348(20):1953-1966.
31.	Marshall, J.D. et al. (2003). "Novel Chimeric Immunomodulatory Compounds Containing Short CpG Oligodeoxyribonucleotides Have Differential Activities in Human Cells," <i>Nucleic Acids Research</i> 31(17):5122-5133.
32.	Merriam-Webster, Inc. (1983). <u>Webster's Ninth New Collegiate Dictionary</u> , Merriam-Webster, Inc.: Springfield, MA, pg. 57.
33.	Murakami, M. et al. (1999). "Human Papillomavirus Vaccines for Cervical Cancer," <i>J. Immunother.</i> 22(3):212-218.
34.	Pisani, P. et al. (1993). "Estimates of the Worldwide Mortality from Eighteen Major Cancers in 1985. Implications for Prevention and Projections of Future Burden," <i>Intl. J. Cancer</i> 55:891-903.
35.	Prince, G.A. (Summer 1994). "The Cotton Rat in Biomedical Research," <i>Animal Welfare Information Center Newsletter</i> 5(2), located at < http://www.nal.usda.gov/awic/newsletters/v5n2/5n2princ.html >, last visited on February 16, 2006, six pages.
36.	Seo, S.H. et al. (September 2002). "Lethal H5N1 Influenza Viruses Escape Host Anti-viral Cytokine Responses," <i>Nature Medicine</i> 8(9):950-954.
37.	Smith, V.P. et al. (February 2002). "Inhibition of Interferons by Ectromelia Virus," <i>Journal of Virology</i> 76(3):1124-1134.
38.	United States Patent Application No. 09/802,518 filed on March 9, 2001 for Van Nest, 53 pages.
39.	Unknown. (Date Unknown). "Resiquimod (Topical), 3M," located at < http://www.iddb.com/iddb3/iddb3_2/reports.print_display?i_query_id=5874091&template... >, last visited on October 7, 2005, 1 page.

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Applicant's unique citation designation number (optional). ²Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature		Date Considered	
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pa-1051641